

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Scott C. Harris	Group Art Unit 3693
Appl. No.	:	10/064,439	
Filed	:	July 14, 2002	
For	:	WEB BASED COMMUNICATION OF INFORMATION WITH RECONFIGURABLE FORMAT	
Examiner	:	J. Greimel	

APPLICANT'S BRIEF ON APPEAL

United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant here with files this appeal brief, thereby perfecting the notice of appeal that was originally filed on June 25, 2008. The sections required by 37 CFR 41.37 follow.

Real party in interest

The present application is not assigned, and hence the inventor Scott C. Harris remains the real party in interest

Related appeals and interferences

There are no known related appeals and/or interferences

Status of claims

In the final rejection dated March 20 6, 2008, all of the pending claims 2-16, 18-19 and 22-32 were rejected. This rejection was based on 35 USC 102 as allegedly by anticipated by Rackman. That rejection is appealed herein.

Status of amendments

An amendment after final was filed on June 25, 2008. As of the writing of this appeal brief, this amendment after final still has not been considered.

Summary of claimed subject matter

Claim 8 defines a Web server producing a webpage that is available on the Internet and which hosts auctions of items for sale. See generally the specification page 3 line 12-page 4 line 6. Claim 8 also defines that the information transmitting part sends e-mail messages that include information about items for sale over the Internet on which a user has been outbid. See paragraph 30 of the specification page 6, lines 12-16.

Claim 22 defines a webpage on a server connected to the Internet. See paragraph 16, page 3 lines 12-16. Claim 22 defines receiving information on an e-mail server with instructions to interact with a webpage. See paragraph 20; page 4 lines 11-17 which describes sending an e-mail to a special address. Claim 22 defines that the

webpage is the server that hosts Internet auction. See paragraph 28. The instruction is to bid on an Internet auction on an item is one on which the user has been previously outbid. See paragraph 30 of the specification page 6 lines 12-16.

Arguments

Rejections Under Section 102

Claims 2-16, 18-19 and 22-32 stand rejected under 35 USC 102b as allegedly being anticipated by Rackson publication number 20020165817. This contention is respectfully traversed, and for reasons set forth herein, the rejection does not meet the patent office's burden of providing a prima facie showing of unpatentability.

In accordance with *Graham v John Deere*, a brief discussion of the scope and contents of Rackson will first be provided.

Rackson teaches a multiple auction coordination service. A user can specify parameters of an item for sale, and put those items for sale on multiple different auction sites. Bidders can submit offers for the items. Rackson describes a remote auction service that allows communicating with other auction sites like eBay. This allows a user to coordinate bidding on items and selling items. Paragraphs 60 and 61 describe how a seller can list their item for sale at multiple different auction sites.

Paragraph 67 describes how when someone places a bid, it can be detected by the system, which can send an email notification message that a bid has been placed or detected. This is a notification of the bid being placed (which "causes bidders or the

seller to be notified of bids for the item", see paragraph 67), not a way to interact with the webpage on the auction site .

Rackson, in fact, describes receiving bids through an Internet-based interface; see paragraph 108. It describes sending e-mails to bidders saying things like 'we notice that you did not win the auction', paragraph 109. It also describes a local auction functionality in paragraph 110.

However, Rackson does not sending outbid notices by email AND receiving bids by email on previously outbid items, as claimed.

Differences between the prior art and the claims:

Claim 8, for example, describes "an information translating part associated with said Web server which receives e-mail messages and translates said e-mail messages into a form which can interact with said webpage being produced by said Web server". That is, claim 8 allows a bidder to send e-mails to interact with the Web server that produces the webpage. Claim 8 defines that the Web server hosts auctions of items for sale and maintains auction bids on those items for sale on which a user has previously been outbid.

Rackson does not disclose receiving an email, and translating that email "into a form that can interact with the webpage being produced by said Web server". Rackson certainly does not teach or disclose doing so for items on which a user has been previously outbid.

Claim 8 also requires that the information translating part also sends e-mail messages that indicate that the user has been outbid on an item. As described above, Rackson sends emails saying things like "we notice that you did not win the auction". He does not disclose any way to receive a new bid by email after being outbid.

That is, according to claim 8, a person who only has an email capable device, e.g., a device that can only send, for example text based messages like a cell phone or pager or the like, can still wholly interact with the Web server that produces and hosts auctions of items for sale and maintains auction bids for sale over the Internet and purchase items on which they have been previously outbid. This claimed system avoids what would otherwise require the user to get Internet access to interact with the Internet webpage. Rather, the user can send e-mails about items on which the user has been previously outbid, that are translated into a form that can interact with the webpage, and can receive e-mails from the Web server indicating items on which the user has been outbid. This system becomes a wholly e-mail based interface to the "web server... that hosts auctions of items for sale and maintains auction bids for items for sale over the Internet".

Rackson defines a networked system "for coordinating the sale of an item to an optimal bidder across a plurality of remote auction services, where the system comprises a networked multi-auction service 30 (see FIGS. 2 and 10), a plurality of networked remote auction services, and a plurality of bidders. The multi-auction service 30 comprises communications means 34 to transfer selling parameters of the item to be auctioned to the plurality of networked remote auction services 14... processor means 36 comprising means for detecting a plurality of bids from a plurality of remote auction service computers for the item, means for determining which of said plurality of detected bids is the optimal bid, and means for replicating the optimal bid across the plurality of remote auction services. See Rackson paragraph 51. This describes that a bid, once placed, is replicated across the multiple computers. However, each of the bidders is expected to communicate their bid in the conventional way: see Rackson's

paragraph 53 which states that “Each of the plurality of bidders comprises communications means 23 for bidding on the item to be auctioned at one of the remote auction services.” See also paragraph 56, which describes telephone and “any other interactive device” being used to place the bid. While this paragraph mentions placing the bids using “pagers”, it does so in the context of telephones, connoting, that a page would be sent and used as a manual bid. Certainly the subject matter of the claims, that allows AUTOMATICALLY placing the bid over email on items on which the user has been previously outbid, is not disclosed.

Paragraph 66 describes the “detailed flow of the bid process will now be described with respect to FIG. 3 that describes how an Internet-based bid replication process of the present invention would occur.” (emphasis added). This paragraph describes that the auction service may SEND an email to replicate the bid among the multiple auction sites when a bid is received, but does not describe receiving a bid by email, or translating that received bid.

Paragraph 95 describes that “A seller from a seller computer may contact the multi-auction service 30 via an Internet connection, where a user interface to the multi-auction service 30 is provided for the seller to enter selling parameters of the item to be auctioned. Alternatively, Sellers may interface with the multi-auction server via other electronic or manual methods”. This again shows that Rackson contemplated internet connection based operation. While it does say that other methods can be used, it does not describe these.

This is further emphasized by paragraph 112 of Rackson, which states that “The bidder may contact the multi-auction service in any manner.” Having said this, however,

Rackson describes a user interface system, and does not disclose the techniques now claimed.

To summarize, therefore, Rackson shows a bid replication system. Once bids are placed, they are replicated among multiple servers. The system describes placing the bids over the internet or as conventional. They do not disclose "an information translating part associated with said web server which receives e-mail messages and translates said e-mail messages into a form which can interact with said web page being produced by said web server". In fact, as described above, Rackson contemplates a web based interface to the disclosed auction serving system. There is no disclosure whatsoever of the combination of claim 8 with its information translating part that receives e-mail messages, translates them into a form that can interact with the webpage, and sends e-mail messages about items on which the user has been outbid.

Claims 2-4 define thin clients (cell phone, pager) that can be used to bid on Internet-based auctions. For example, these devices can be used to place a bid on items for sale over the Internet. This can be done without requiring that thin client to be able to host or display a webpage. Rather, the client needs to be able to send e-mail messages, something that virtually every cell phone can do. The rejection states that paragraphs 55-57 described the use of a cellular phone for sending e-mails. This is incorrect – these cited sections define receiving and replicating a bid. To the extent that Rackson receives a bid over a cell phone, he apparently does so via phone call and manual entry of the bid based on that phone call.

Rackson has no disclosure or suggestion about the "information translating part that can translate e-mail messages into a form that can interact with said web page

being produced by said web server” in combination with sending “email messages ... about items ... on which items a user has been outbid”. This claimed system allows a wholly email based interface to a web server. Therefore, claim 8 produces significant advantages over Rackson, who teaches no way that an e-mail-only client could interact with such a Web server to send bids by email thereto, and receive outbid notifications by email therefrom. Claim 8 should hence be allowable along with claims 2-7 and 9-16, and 18 which depend therefrom.

The dependent claims should also be allowable on their own merits. Claims 10 and 12 defines a session identification indicator as part of the plain text messages. Rackson has nothing about such session identification. The rejection refers to the session identification as being in paragraphs 30-34, the summary of the invention section of Rackson. With all due respect, this says nothing about any kind of session identification as claimed.

Claim 15 defines sending a new bid by e-mail, something that is not possible using Rackson, and is completely patentable thereover.

Claim 18 defines a second e-mail about interaction with the webpage. Rackson teaches nothing about ANY email interacting with the webpage, and with all due respect, therefore, claim 18 which defines a second email interaction, is even further patentable thereover.

Claim 22 should also be allowable: as claim 22 requires producing a webpage, and receiving an e-mail message with instructions to interact with the webpage on an item on which the user has been previously outbid. As described above, this is in no way taught or suggested by Rackson, which does not disclose interacting with a server

that hosts a webpage with instructions to bid on an item on which a user has been previously outbid.

For all of these reasons, all of these claims should be allowable and the previous rejection should be reversed.

Please charge any unpaid fees due in connection with this response to Deposit Account No. 50-1387.

Respectfully submitted,

Date: 8/26/2008

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Claims Appendix

2. A system as in claim 8, wherein said e-mail messages include e-mail messages in plain text form.
3. A system as in claim 8, further comprising an e-mail pager, producing said e-mail messages.
4. A system as in claim 8, further comprising a cellular telephone, producing said e-mail messages.
5. A system as in claim 8, wherein said information translating part receives and translates a user ID and password as part of said email messages.
6. A system as in claim 8, wherein said information translating part accepts e-mail messages which include instructions to change bids on items in auctions for which a user has been previously outbid.
7. A system as in claim 8, wherein said information translating part also sends e-mail messages indicative of information about said auctions.
8. A system, comprising:
a web server, producing a web page which is available on the Internet; and

an information translating part associated with said web server which receives e-mail messages and translates said e-mail messages into a form which can interact with said web page being produced by said web server;

wherein said web server is a server that hosts auctions of items for sale and maintains auction bids for items for sale over the Internet, and

wherein said information translating part also sends e-mail messages that include information about items in said auctions for sale over the Internet, on which items a user has been outbid.

9. A system as in claim 8, wherein said information translating part produces and sends messages which include a session identification indicator that identifies said auction information.

10. A system as in claim 9, wherein said information translating part detects a reply to one of said plain text messages which reply including said session identification indicator, and takes action on a specified auction based on said session identification indicator.

11. A system as in claim 8, wherein said information translating part also sends e-mail messages indicative of actions occurring on said web page.

12. A system as in claim 11, wherein said e-mail messages include a session ID indicative of said actions.

13. A system as in claim 12, wherein said session ID is included as part of a return address in the e-mail message.

14. A system as in claim 13, wherein the session ID is used to interact with said actions on said Web page.

15. A system as in claim 10, wherein said action includes placing a new bid.

16. A system as in claim 98, wherein said information translating part detects a new bid amount as part of a sent message.

18. A method as in claim 22, further comprising sending a second e-mail that has instructions on a specific interaction with said web page.

19. A method as in claim 22, wherein said first e-mail includes information that requests specified information from said web page, and further comprising sending a response including said specified information.

22. A method, comprising:
producing a web page on a server that is connected to the Internet; and
receiving a first e-mail message on the server, which e-mail has instructions to interact with said web page;

wherein said web page is a web page for a server that hosts Internet based auctions;

wherein said receiving comprises receiving an instruction to bid on an item on an Internet based auction; and

wherein said item is an item on which a user has been previously outbid.

23. A method as in claim 4722, wherein said web page is an e-commerce site.

24. A method as in claim 4822, wherein said web page is a web page for a server that hosts Internet based auctions.

25. A method as in claim 24, wherein said e-mail message includes a session ID indicative of an individual auction on said web page.

26. A method as in claim 19, wherein said e-mail message with information includes information about said auctions on which a user has been previously outbid.

27. A method as in claim 26, further comprising replying to said e-mail with instructions to increase a bid.

28. A method as in claim 18, wherein said e-mail message includes session ID information that represents said individual auction on which said user has been previously outbid.

29. A method as in claim 28, further comprising replying to said e-mail message with said session ID information, and modifying a bid on said web page responsive to said replying.

30. A method as in claim 29, wherein said session ID is part of a return address for said e-mail.

31. A method as in claim 29, wherein said replying includes specifying an amount of a bid to be placed.

32. A method as in claim ~~17~~ 22, wherein said e-mail message includes a session ID indicative of an individual item on said web page.

Evidence appendix

(none)

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Related proceedings appendix

(attached)